

**Ackerman, Joyce**

**From:** Kevin Olson <kolson@us.ibm.com>  
**Sent:** Thursday, October 19, 2017 5:21 AM  
**To:** JSteeler@sennlaw.com  
**Cc:** Ackerman, Joyce; Dave.Stewart@stewartenv.com; jason.king@coag.gov; Piggott, Amelia; rdean@stratuscompanies.com  
**Subject:** Re: Stratus Redtail Ranch

Mr. Steeler:

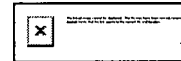
IBM is continuing an internal review of this matter, which concerns facts from almost fifty years ago and an EPA inquiry from only a couple of months ago. As you and I discussed, IBM has not shut the door on future discussions related to the site, but, at this point, we are not in a position to fund a removal of drums that do not appear to be IBM's responsibility. Finally, IBM objects to any attempt to litigate the liability or PRP status of Stratus or IBM in an email. In the future, if you are unsure about IBM's position, please call me directly.

Regards,  
Kevin Olson

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**KEVIN G. W. OLSON**  
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----- Original message -----

From: "Jonathan H. Steeler" <JSteeler@sennlaw.com>  
To: "Piggott, Amelia" <Piggott.Amelia@epa.gov>, "Ackerman, Joyce" <Ackerman.Joyce@epa.gov>, "jason.king@coag.gov" <jason.king@coag.gov>, "Kevin Olson" <kolson@us.ibm.com>  
Cc: "rdean@stratuscompanies.com" <rdean@stratuscompanies.com>, "Dave Stewart" <Dave.Stewart@stewartenv.com>  
Subject: Stratus Redtail Ranch  
Date: Tue, Oct 17, 2017 6:40 PM

Amelia:

Following up on our call of yesterday, I want to reiterate that Stratus Redtail Ranch, LLC is prepared to undertake a removal action of the drums and liquid within the drums at the Stratus Property. I have attached a conceptual outline of the proposed removal action. If the foregoing is acceptable, we will turn this into a plan that can be attached to an AOC to be entered into between EPA and Stratus. On Friday 10/13, you also requested a copy of

the results of the latest round of site investigations. This information will be forwarded to you and Joyce Ackerman under separate cover later this week or at the beginning of next week at the same time that it is submitted to the State of Colorado.

We understand from your email of October 13<sup>th</sup>, that EPA is concerned about site security and the potential for leakage from the drums. To address security issues, my client is prepared immediately to install fencing around the areas where the investigation has indicated that drums are present. Please advise if EPA would like this for Stratus to proceed with fencing. With regard to the potential for ongoing leakage from the drums, the investigations to date has not revealed any evidence that the drums are leaking. Notwithstanding the foregoing, Stratus believes that the work can be accomplished by the end of November at the earliest and mid-December at the latest. The timing somewhat depends upon our ability to negotiate a removal plan and an acceptable AOC.

You have indicated that due to the lack of available EPA resources, that we simply use the model AOC. Could you please forward the same to me ASAP? While we understand the Agency's desire to use the model, in view of the unwillingness of IBM, clearly a PRP, to participate in any sort of discussion, we request that the AOC provide Stratus with contribution protection, at least with respect to the work being proposed. As an innocent landowner who performed all appropriate inquiry prior to acquisition, I believe my client should be protected against claims by IBM or other PRPs given its willingness to step up and perform the drum removal. We would also like to discuss EPA waiving its ability to recover oversight costs from Stratus. Oversight costs, if any, should be sought from other PRPs who, to date, have done nothing towards site clean-up. Stratus has expended approximately \$500,000 at this site while PRPs have spent nothing.

In addition, we would like to discuss possible assurances from EPA regarding Stratus' innocent landowner status so as to provide my client comfort that it will be treated consistently with its limited involvement at this site. While not a condition of doing the work, we would like to discuss the same as well as any assistance EPA can provide with regard to other PRPs. These discussions can certainly be done after the drum removal AOC is finalized and the removal effort is completed. As I indicated in our telephone call, on Wednesday of last week, I was advised by counsel for IBM that at this time IBM had no interest in participating in any further discussions regarding the site. Accordingly, It is likely that my client will commence litigation against IBM in the near term. I have copied counsel for IBM with this email and if the foregoing statement is an incorrect characterization of IBM's position, I am sure counsel will correct that position.

I have copied Jason King with this email and I assume he will provide copies to the various folks at CDPHE. My client will be sharing this email with the Town of Erie as well. We believe that it is important that EPA, the State and the Town are all on the same page during the removal action.

Thank you for your efforts. I look forward to hearing from you regarding a path forward. Jon

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